

BEFORE THE HUMAN RIGHTS COMMISSION  
OF THE STATE OF MONTANA

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ARNELL WAGNER,

Case #0081013361

Charging Party,

ORDER

-v-

FIKE CRUSHING INC.,

Respondent.

Arnell Wagner (Wagner) filed a complaint with the Department of Labor and Industry (Department) alleging that Fike Crushing Inc. discriminated against her based on gender, disability and perceived disability when she was terminated from her position. Following an informal investigation, the Department determined that a preponderance of the evidence did not support Wagner's allegations of unlawful discrimination. The Department issued a Notice of Dismissal. Wagner filed an objection with the Montana Human Rights Commission (Commission). The Commission considered the matter on July 22, 2009.

The Commission reviews a decision of the Department to dismiss a complaint using an abuse of discretion standard. *Section 49-2-511(2), MCA*. After careful consideration, the Commission concludes the determination of the Department to dismiss the complaint in this case is not an abuse of discretion.

If a charging party chooses to commence a civil action in district court, the charging party has 90 days after the date this order is issued to petition a district court, in the district where the alleged violation occurred, for the appropriate relief. *Section 49-2-511(3)(a), MCA*. If a charging party fails to commence a civil action within 90 days, the claim is time barred. *Id.*

Alternatively, a party may ask a district court to review the decision of the Commission to affirm the dismissal of a complaint. *Section 49-2-511(3)(b), MCA; Mont. Code Ann. § 2-4-702.* This review must be requested within 30 days after the date this order is issued.

IT IS HEREBY ORDERED, that Arnell Wagner's objections are **overruled**. The Commission affirms the determination of the Human Rights Bureau to dismiss the complaint against Fike Crushing Inc.

DATED this \_\_\_\_ day of July, 2009.

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Chair Ryan C. Rusche  
Human Rights Commission

## CERTIFICATE OF SERVICE

The undersigned secretary for the Human Rights Commission certifies that a true and correct copy of the foregoing ORDER was mailed to the following by U.S. Mail, postage prepaid, on this \_\_\_\_\_ day of July, 2009.

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Montana Human Rights Bureau